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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Petition of GTE for Declaratory Ruling)
Regarding the Use of Section 252(i) to) CC Docket No. 99-143
Opt-into Provisions Containing Non-Cost-)
Based Rates)

**OPPOSITION OF
INTERMEDIA COMMUNICATIONS INC.**

Intermedia Communications Inc. ("Intermedia"), by its counsel, hereby opposes GTE's Petition for Declaratory Ruling in the above-captioned proceeding.¹ The *GTE Petition* requests that the Commission declare that telecommunications carriers cannot use their section 252(i) rights to opt-into state commission-approved provisions of interconnection agreements, including reciprocal compensation provisions.² Intermedia submits that the Commission should reject the *GTE Petition* as: (1) a naked collateral attack on the Commission's *Inter-Carrier Compensation Order*³ and (2) violative of the plain language of section 252(i).

The *GTE Petition* is nothing more than a transparent attempt to re-litigate the Commission's *Inter-Carrier Compensation Order*. In this order, the Commission stated that "[w]here parties have agreed to include [ISP] traffic within their section 251 and 252 interconnection agreements, they are bound by those agreements, as interpreted and enforced by the state commissions."⁴ In addition, the Commission noted that its decision should not be

¹ *Pleading Cycle Established for Comments on GTE Petition for Declaratory Ruling*, CC Docket No. 99-143 (rel. May 6, 1999).

² *GTE Petition for Declaratory Ruling* at 1 ("*GTE Petition*").

³ Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No 99-68 (rel. Feb. 26, 1999) ("*Inter-Carrier Compensation Order*").

⁴ *Id.* at ¶ 22.

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“construed to question any determination a state commission has made, or may make in the future [regarding reciprocal compensation for ISP-bound traffic].”⁵ Fundamentally, the *GTE Petition* is an effort to eviscerate these Commission rulings so that GTE can: (1) foreclose CLECs from adopting favorable interconnection agreements and (2) end-run state commission decisions favorable to CLECs. Thus, the *GTE Petition* amounts to a collateral attack on the Commission’s *Inter-Carrier Compensation Order*, and as such, the Commission should reject the *GTE Petition*.

The relief requested by GTE contradicts the plain terms of section 252(i). Section 252(i) provides:

A local exchange carrier shall make available any interconnection service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.⁶

In other words, pursuant to section 252(i), CLECs are entitled to adopt provisions of interconnection agreements – including provisions governing reciprocal compensation – that have been approved by state commissions. GTE may not unilaterally “pick and choose” the provisions it permits CLECs to adopt under section 252(i).

The relief requested by the *GTE Petition* would result in a situation where CLECs would be foreclosed from adopting provisions of state commission-approved interconnection agreements in direct violation of section 252(i). Such a result would encourage myriad ILEC petitions to limit further the use of section 252(i) by CLECs seeking nondiscriminatory access to

⁵ *Id.* at ¶ 24.

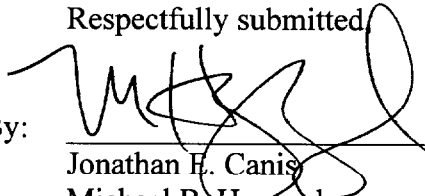
⁶ 47 U.S.C. § 252(i)

interconnection. If section 252(i) is to remain “a primary tool of the 1996 Act for preventing discrimination under section 251,”⁷ then the Commission must reject the *GTE Petition*.

Consistent with the reasons stated herein, Intermedia respectfully requests that the Commission reject GTE’s request for declaratory ruling.

Respectfully submitted

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Dated: May 17, 1999


⁷ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Memorandum Opinion and Order, 11 FCC Rcd 15499, ¶ 1297 (1996) (subsequent history omitted).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Opposition of Intermedia Communications Inc. were served this 17th day of May 1999, by hand on the following:

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